

REMARKS**Claim Status:**

Claims 7, 37, 67 and 96-98 are pending in the application. Claims 1-6, 8-36, 38-66 and 68-95 are canceled and dependent claims 96-98 are newly presented. We reserve the right to prosecute canceled claims 84-95 in one or more continuing applications.

Claims 7, 37 and 67 are amended in independent form.

But the scope of these claims has changed, notably becoming broader. For example, instead of reciting “an audible signal modulated with information correlated to the index,” claim 7 now recites an audio signal including an index encoded therein. And claims 37 and 67 each recites an input device configured to obtain an index from an encoded audio signal. (While claim 7 is still intended to cover an implementation utilizing an audible signal modulated with information correlated to the index, it is not now limited to such.)

We respectfully invite the Examiner to consider the amended claim language since we have made other changes as well.

Scope of Copied Claims Changed

We respectfully submit that an interference with the Hudetz patent is no longer deemed proper due to the change of claim scope.

Art-based Rejection*Wolff*

Canceled claims 1-6, 10-36, 40-66 and 70-83 were rejected under “35 U.S.C. 103(a)” as being “clearly anticipated” by Wolff, U.S. Patent No. 5,848,413. Please see the Office Action on page 2, paragraph 3.

Given the use of the phrase “clearly anticipated” we think the Examiner intended to reject these claims under 35 U.S.C. 102(e) and not under 35 U.S.C. 103(a). We invite the Examiner to correct us if we are mistaken.

Wolff in view of Moskowitz

Claims 7, 37 and 67 stand rejected as being unpatentable over Wolff in view of Moskowitz, U.S. Patent No. 5,822,432. We respectfully traverse this rejection since Moskowitz is not believed to be a proper prior art reference.

Moskowitz claims priority only to January 17, 1996.

But the present application is a straight continuation application back to at least July 1995. Thus, we respectfully disagree that – relative to the priority date of the present claims – Moskowitz shows that it was well known in the art to carry embedded digital data such as network addresses in audio signals. See the Office Action, page 4, paragraph 5.

We respectfully ask that Moskowitz be removed as a prior art reference.

The Office acknowledges that Wolff does not teach modulating an index with an audible signal. Please see the Office Action, page 4, paragraph 5. We agree.

(And as noted in an earlier office action regarding claim 7 (and by extension claims 37 and 67), “Hudetz does not explicitly teach encoding the index with an audible signal.” Please see page 5, lines 4-5 of the July 13, 2005, final Office Action.

We also agree with the Examiner’s characterization of the Hudetz provisional application no. 60/000,442, filed June 20, 1995: “Hudetz does not teach using an index database....” See the July 13, 2005, final Office Action, page 4, lines 13-15. Thus, the Hudetz patent nos. 5,978,773 and 6,199,048 – which claim priority to the June 20, 1995 provisional application – are not believed to be prior art to the pending claims regarding such indexing.)

The pending claims stand ready for allowance.

Information Disclosure Statement

We submitted an Information Disclosure Statement and Form 1449 on February 9, 2006. Each of the documents listed on the Form 1449 had been previously cited in other Information Disclosure Statements filed in this application. We have received initialed copies of these other 1449 forms, indicated that the documents have been considered by the Examiner.

Conclusion:

The application stands ready for allowance. Nevertheless, the Examiner is invited to contact the undersigned with any questions.

(The Office is hereby authorized to charge our deposit account no. 50-1071 any fee needed for this paper. If an extension of time is required, please consider this a petition therefore, and charge any extension fee to our above-noted deposit account.)

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Respectfully submitted,

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